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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,179	01/23/2002	Jose R. Carranza	102	8443

33109 7590 02/27/2004

CARDICA, INC.
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REDWOOD CITY, CA 94063

EXAMINER

BAXTER, JESSICA R

ART UNIT	PAPER NUMBER
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3731

8

DATE MAILED: 02/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/055,179

Applicant(s)

CARRANZA ET AL.

Examiner

Jessica R Baxter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2003, 30 April 2003, 05 Dec 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) 16-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 9-12, 14, 15, 41, 42 and 44 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 7, 8, 13 and 43 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4.5.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claims 16-40 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 7.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 6, 11, 12, 14, 15, 41, 42 and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,695,504 to Gifford III et al.

Gifford discloses a system for preparing a graft vessel comprising a functional package comprising a tray with at least one recess (Column 69 lines 45-62), an assembly held in at least one recess, said assembly comprising a crown and an anastomosis device connected to said crown (100), a pull-through tool (120) comprising a tube, a poke-through tool (111), an anastomosis tool (118) comprising a passage; wherein at least one recess is configured to hold a biocompatible fluid (Column 69 lines 45-62).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

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skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gifford III, et al. '504 in view of WO 01/91628 to Podmore et al.

Gifford discloses the claimed invention except for the detachable eversion shield held on said crown. Podmore teaches that an eversion shield is provided in order to protect the graft from premature puncturing by the tines of the anastomosis device (Page 20 lines 12-35). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device of Gifford with the eversion shield of Podmore in order to protect the graft vessel from premature puncturing by the tines of the anastomosis device.

Allowable Subject Matter

6. Claims 4, 5, 7, 8, 13 and 43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 4,562,596 to Kornberg et al.

U.S. Patent No. 6,110,191 to Dehdashtian et al.

U.S. Patent No. 4,801,299 to Brendel et al.

U.S. Patent No. 6,358,258 to Arcia et al.

U.S. Patent No. 5,290,295 to Queralts et al.

U.S. Patent No. 6,494,889 to Fleischman et al.

U.S. Patent No. 5,769,887 to Brown et al.

PG-PUB 2004/0002721 to Podmore et al.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica R Baxter whose telephone number is 703-305-4069. The examiner can normally be reached on M-F 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Milano can be reached on 703-308-2496. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jessica R Baxter
Examiner
Art Unit 3731


jrb


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